

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 8

February 24, 2000

SUBJECT: COMPLAINT REPORTING PROCEDURES - REVISED

EFFECTIVE: IMMEDIATELY

BACKGROUND: Special Order No. 1, 1998, expanded the complaint system to monitor, track and investigate all public complaints, whether or not they amounted to misconduct, and complaints of misconduct reported by Department personnel, including Failures to Appear (FTA), Failures to Qualify (FTQ), and Preventable Traffic Collisions (PTC). Additionally, the original Special Order created the Complaint Form (CF), added seven new adjudication classifications, three reporting formats (standard Intradepartmental Correspondence, Form 15.2, short form and fact sheet), and three corresponding Letter of Transmittal styles.

Subsequent management review of the quantitative impact, investigative and adjudicative inconsistencies, and closeout delays, identified a need to refine Special Order No. 1, 1998, to more effectively capture information and expedite the culmination of complaints.

PURPOSE: The policy intent and spirit of Special Order No. 1, 1998, remain unchanged. The contents of this Order contain much of the same information as was in Special Order No. 1, 1998, however, it also contains the modifications, which are underlined for ease of identification.

Specifically, this Order clarifies the difference between public and Department complaints, eliminates the use of the fact sheet, identifies all complaints as "allegations," expands the use of the Short Form investigation/adjudication, standardizes the reporting, adjudication, and Letter of Transmittal styles, establishes a method to conform to newly amended Penal Code Section 832.5, creates additional adjudication classifications, and documents the responsibility for complaint adjudication, employee interview, and Skelly process. This Order supersedes Special Order No. 1, 1998.

POLICY: The policy of this Department shall be to record all complaints from the public and complaints of misconduct from within the Department and, except as otherwise noted, to keep records of their classification and disposition on Complaint Histories and in the Training Evaluation and Management System (TEAMS). Furthermore, it is the Department's policy that Complaint Histories and TEAMS will be a tool for inquiry and investigation and shall not be used as a substitute for an employee's personnel

file. If an officer appears to have an above average amount of credible complaints, a supervisor should be prompted by this information to investigate whether a pattern actually exists and what, if anything, should be done. Such patterns may lead to non-punitive counseling or training. The supervisor may not, however, conclude from raw numbers that an officer is currently or has been a "problem" employee or is guilty of misconduct. The use of information contained in TEAMS is subject to the provisions of Section 3/405 of the Department Manual.

Note: This does not preclude the use of a modified TEAMS report by interview panels for advanced paygrade or civil service promotions when the report limits the disciplinary history to sustained complaints.

Evidence of a pattern of conduct may be considered by a commanding officer in adjudicating a complaint of misconduct, as well as by a Board of Rights. In considering evidence of a pattern of conduct or a prior sustained complaint(s), the nature, relevancy and recency of the evidence or complaint should be considered in determining the appropriate weight to be given this information.

As has always been the policy, credible patterns of misconduct and/or sustained complaint(s) in relevant categories will influence selection for a coveted assignment, advancement, or personnel evaluation, and may be temporarily disqualifying for a specific position.

PROCEDURE:

- I. COMPLAINT - DEFINED.** The definition of a complaint is expanded to include any public complaint, anonymous or identified, regarding Department services, policy or procedure, claims for damages (which allege employee misconduct), or employee misconduct, regardless of whether the complaint alleges misconduct as defined by Section 3/805.25 (Misconduct Defined), and any complaint of misconduct initiated by Department employees.
- II. COMPLAINT - HOW RECORDED.** Public complaints and Department complaints alleging misconduct shall be accepted from any source: written, in-person, telephonic, or electronic. The requisite information shall be recorded on the CF. The front side of the CF shall be used to record statistical information that will be entered into the database with a brief summary of the

complaint. The backside of the CF shall be used to document the preliminary investigation by the supervisor who initiated the complaint. The complainant's statement, letter, or claim for damages, if any, shall be attached to the form.

Note: Section 3/815.05 of the Department Manual requires employees, who are not supervisors who become aware of possible misconduct by another member of the Department, to immediately notify a supervisor. In such cases, the supervisor shall initiate the complaint form. Therefore, only a supervisor shall initiate a Complaint Form.

Exception: Supervisors who find themselves in a position of being the subject of alleged misconduct shall report the incident to another supervisor who shall conduct a preliminary investigation and, if necessary, complete a Complaint Form.

All public complaints, and Department complaints alleging misconduct, shall be referred to as "allegations." The term "issue" or "concern" is no longer used to describe a complaint.

Note: According to Black's Law Dictionary, the definition of "allegation" is, "The assertion, claim, declaration, or statement of a party to an action..." Therefore, the term allegation does not denote guilt nor assert misconduct and is used merely to document the complainant's assertion, claim, declaration or statement.

- A. Failures To Appear, Failures To Qualify, and Preventable Traffic Collisions. All Failures to Appear (FTA), Failures to Qualify (FTQ), and Preventable Traffic Collisions (PTC) shall be recorded on a CF. It is the responsibility of commanding officers to take appropriate corrective action that may involve, but is not limited to, counseling, training, or action other than formal discipline. A Short Form report, which includes the adjudication, has been adopted to report such matters (refer to Section V-C for further). Formal discipline will only be required when other forms of corrective action for similar occurrences have proven ineffective, as demonstrated by repeated occurrences

within a period of time, when other aggravated circumstances exist, when there is a PTC involving a violation of the pursuit policy, or other misconduct is involved.

Note: A commanding officer may recommend formal discipline for a first occurrence of a FTA, FTQ, or PTC if he or she deems it appropriate for the proper adjudication of a particular incident. In such instances, the commanding officer shall articulate the rationale for the adjudication in the administrative insight portion of the Letter of Transmittal.

B. Calls for Service. Supervisors shall conduct a preliminary investigation of complaints involving delays in calls for service. The delayed response of a patrol unit or a detective failing to conduct a follow-up interview due to workload, is not considered a complaint, but rather a delay in providing service and no CF is required.

Example 1: A patrol unit does not respond to a low priority call for 30 minutes due to the amount of Code Two calls being dispatched.

Example 2: A detective fails to conduct an in-person interview as required for a Hate Crime, and instead conducts a telephonic interview due to workload.

If the preliminary investigation discloses there was negligence rather than a delay in providing service due to workload (e.g., call lost when passed from one unit to another at change of watch), a Form 1.28.0 shall be completed.

C. Traffic Citations. Supervisors shall conduct a preliminary investigation of the violator's complaint about the issuance of the traffic citation. If no error was identified in the issuance of the citation, the complainant should be directed to the appropriate court for resolution, and no CF is required. However, if misconduct was alleged or discovered during the interview, then a CF is required.

Example 1: A complainant informed a supervisor that he/she denied committing the infraction for which

he/she received a citation. A review of the circumstances of the citation did not identify any error or misconduct. No CF is required and the complainant would be referred to the appropriate court.

Example 2: A complainant informed a supervisor that he/she denied committing the infraction for which he/she received a citation and the officer was discourteous towards him/her during the issuance of the citation. A CF is required to document and address the courtesy allegation, and the complainant referred to the appropriate court to resolve the citation matter. The referral would be documented on the CF.

D. Vehicle Impound Complaints. Supervisors shall interview the complainant regarding the incident that resulted in the vehicle being impounded. If no other allegation(s) is made regarding the vehicle impound itself, no Complaint Form is required and the complainant may be referred to the Vehicle Impound Hearing process as delineated in Manual Section 4/266.05. If the interview discloses an allegation(s), a Complaint Form shall be initiated regarding the allegation(s) outside of the vehicle impound, and the referral of the Complainant to the Vehicle Impound Hearing process documented on the Complaint Form.

III. REQUIRED DOCUMENTS. For all complaints in which a specific employee is accused of misconduct, the employee's complete TEAMS report and Personal and Work History Summary, Form 1.06.0, shall be forwarded with the investigation for the purposes of the commanding officer's review during the adjudication process. Additionally, standard investigations shall include a Chronological Record, Form 03.11.6, and all investigations shall include a Statistical Report, Form 1.19. None of these required documents shall be listed or included as addenda to the investigation.

IV. CLASSIFICATION FOR DISPOSITION OF COMPLAINTS. The following classifications are in addition to those delineated in Manual Section 3/820.20 for the disposition of allegations. All allegations shall be identified as either Misconduct or Non-Misconduct allegations, and for

the purposes of disposition, classified in the following manner:

Misconduct Allegations. The disposition of Misconduct Allegations shall use only the following classifications: Sustained, Sustained-No Penalty, Not Resolved, Unfounded, Exonerated, or one of the alternate classifications described below.

Non-Misconduct Allegations. The disposition of Non-Misconduct Allegations (formerly called "issues" and "concerns") shall use only the following classifications: Policy/Procedure, Chronic/Crank/Obvious Mental Impairment, Other, or one of the alternate classifications described below.

Alternate Classifications. Alternate Classifications involve the following: Frivolous, Incomplete Investigation, Withdrawn by the Chief of Police, No Department Employee, Other Judicial Review, and Duplicate.

A. Allegations of Misconduct.

1. Sustained. As currently defined in Manual Section 3/820.20.
2. Not Resolved. As currently defined in Manual Section 3/820.20.
3. Exonerated. As currently defined in Manual Section 3/820.20.
4. Unfounded. As currently defined in Manual Section 3/820.20.
5. Sustained-No Penalty. The investigation supports sustaining the allegation; however, "No Penalty" is the appropriate disposition. In all cases, appropriate corrective action shall be taken that may involve, but is not limited to, counseling, training, or action other than formal discipline.

B. Allegations of Non-Misconduct.

1. Policy/Procedure. The nature of the investigation dealt solely with a complaint against a Department policy or procedure.

Example: The complainant alleged that the Department helicopter was deployed in the neighborhood, making excessive noise; however, it did not appear to be flying lower than normal.

2. Chronic/Crank/Obvious Mental Impairment. One of the following criteria shall be met:

- a. The complainant had been identified by Internal Affairs Group (IAG) as a chronic/crank complainant and the investigation showed no evidence of any misconduct, as defined by Manual Section 3/805.25; or
- b. The allegation is demonstrably false and the complainant appears to have an obvious mental impairment.

Note: According to Merriam Webster's Collegiate Dictionary, 10th Edition, "Chronic" is defined as, "marked by long duration or frequent recurrence..." and "Crank" is defined as "an annoyingly eccentric person; also one that is overly enthusiastic about a particular subject or activity."

3. Other. The investigation of an employee's action or inaction did not identify any allegations of misconduct, as defined by Manual Section 3/805.25.

Example: The complainant alleged that the officer "looked intimidating" when he issued her a citation, but the complainant could not formulate a specific allegation regarding the employee's conduct.

C. Alternate Classification.

1. Frivolous. Section 128.5(b)(2), of the Code of Civil Procedure (CCP) defines "Frivolous" as "(A) totally and completely without merit or (B) for the sole purpose of harassing an opposing party."

Note: Complaints deemed to be Unfounded are not generally considered to be "Frivolous." The definition of Section 128.5(b)(2) of the CCP is intended to be very narrowly construed as it applies to the disposition of a complaint. Although an adjudicator, with sufficient justification, may recommend this classification for disposition, IAG shall make the final determination of the frivolous disposition, pending review by the Chief of Police.

2. Other Judicial Review. During the preliminary investigation it was determined that the matter was either under judicial supervision or was of a civil nature and would more appropriately be handled via the concerned court (e.g.: allegations of violation of a restraining order, child custody/support matters, separation dispute matters, off-duty business/financial, or other non-duty related civil disputes, etc.).

Example: An employee's spouse alleges that the employee violated the conditions of a court order regarding child custody visitation. Since the matter is under the supervision of the court, a CF would be completed to document the incident and the complainant referred to the concerned court for resolution. The matter would be investigated as a Short Form complaint, adjudicated as "Other Judicial Review," and a reply letter prepared referring the complainant to the appropriate judicial review process.

Note: If, after adjudication of the above complaint, the court of jurisdiction determines that an employee was in violation of a lawful court order, whether criminal or civil, a new CF number shall be issued referencing the previously issued CF number and an investigation initiated without delay.

Pre and Post-booking complainants: A CF is required for all pre- and post-booking complainants who allege false arrest, false reports, planting of evidence, etc., and the required investigation completed.

Post-conviction complainants: A CF is required for all post-conviction complainants. If, after an interview of the complainant and a preliminary investigation, the commanding officer determines that all issues raised by the complainant had been previously addressed by the involved court, or would be best addressed by the complainant through the appropriate appellate process, the commanding officer may utilize the Short Form CF to document the preliminary investigation and the adjudicated recommendation of "Other Judicial Review." The adjudication shall also document the referral provided to the complainant. Whenever possible, the complainant's interview should be tape recorded.

Note: The classification of "Other Judicial Review" shall not be used to adjudicate complaints stemming from the complainant's filing of a civil action (including claims for damages) against Department personnel alleging misconduct during duty-related activity. Such complaints shall be thoroughly investigated and adjudicated.

3. **Incomplete Investigation.** The investigation could not be thoroughly or properly investigated. This may be caused by a lack of cooperation by the complainant and/or witnesses, or the absence of a critical interview that was necessary to proceed with the investigation, and/or the available physical evidence or witnesses' statements are insufficient to adjudicate the complaint.
4. **Withdrawn by Chief of Police.** The Chief of Police may withdraw the allegation(s) or charge(s) in the best interest of the Department when:
 - * On the advice of the City Attorney, imposing discipline is legally prohibited, or would subject the Department to civil liability; or,

- * In the interest of justice and/or fairness, the allegation would be better adjudicated outside the Department, e.g., by a court of competent jurisdiction, or the alleged act is minor misconduct and/or significant time has passed; or,
- * Evidence used to sustain a charge is unavailable or had been lost, stolen, or destroyed; or,
- * Other articulable reasons.

The rationale for withdrawal of an allegation or charge shall be articulated in writing.

5. **No Department Employee.** The investigation revealed that no Department employee was involved.

Example: The investigation revealed that the acts alleged against unknown Department officers were, in fact, committed by private security officers or employees from another agency.

6. **Duplicate.** When a preliminary investigation of a complaint reveals the incident is the same as another complaint already under investigation (CF number assigned), the complaint shall be cross referenced with the master CF number of the investigation that is related to the duplicate. Any additional or new information shall be noted as part of the supervisor's preliminary investigation and forwarded to IAG, which will close the duplicate complaint, cross reference the CF number to the master complaint CF number, and forward the additional information to the appropriate investigators.

Example: A complainant initiated a complaint in-person at Wilshire Community Police Station. A co-complainant initiated a complaint by telephone to the duty room the next day. Complaint Form numbers were issued for both complaints; however, upon receipt of the duty room complaint at Wilshire Community Police Station, it was found to be a duplicate of the in-person complaint. The complaint from the duty room was closed and the closed CF number

cross-referenced with the CF number (now considered the master number) of the in-person complaint, which was already under investigation.

Note: When the complainant of a duplicated complaint is different from the initial complainant, an undated reply letter to the duplicate complainant advising him/her of the duplicate status and the fact that the duplicate investigation would be closed in favor of the master investigation, shall be submitted with the request. Additionally, upon completion of the master CF, a reply letter should be prepared to the complainant on the duplicate CF advising him/her of the adjudication.

V. SUPERVISOR RESPONSIBILITY.

A.. Complaints Made In-person. When a supervisor becomes aware of a public complaint or a complaint of misconduct initiated by Department personnel, the supervisor shall:

- * Listen to the complainant and gather information;
- * Whenever possible, tape record the interview;
- * Take appropriate action to prevent aggravation of the incident;
- * Interview the complainant and other involved parties;
- * Document the complainant's statement on the Statement Form, Form 3.11.20, and request his or her signature. If the complainant refuses to sign the Statement Form, indicate "complainant refused to sign" in the appropriate space. When possible, immediately present a copy of the completed statement to the complainant. Indicate on the CF whether the statement was provided to the complainant immediately or mailed the next day because of extenuating circumstances;
- * In cases involving misconduct, provide the complainant with the Complaint Information Advisory Form, Form 1.81.16, and request that he or she read and sign the form as required by Penal Code Section 148.6; if a signature is refused, write "refused" on the Complaint

Information Advisory Form. After the complainant has read the Form 1.81.16, elicit a statement to ensure there is a complete understanding. If the complainant does not appear to have an understanding of the Form 1.81.16, it shall be read to him or her in a professional, advisory manner. After reading the form, obtain his or her signature of acknowledgement. If the complainant refuses to sign the Advisory Form, indicate 'Complainant refused to sign' in the appropriate space;

- * Conduct a preliminary investigation;
- * Attempt to resolve, explain, or remedy the complaint to the satisfaction of the complainant, and the best interest of the public and the Department;

Note: Regardless of whether a consensual resolution of the complaint may be achieved through the intercession of a supervisor, the complaint must still be recorded, investigated, and classified. The outcome of any intercession shall be included in the investigation of the complaint as a necessary element of its final disposition.

- * Make notification to the employee's commanding officer;

Note: For cases that may subject the Department to severe criticism or liability, notification shall also be made to the Commanding Officer, Internal Affairs Group.

- * Document the investigation, interviews, explanations made, actions taken, and the complainant's final response on the CF and attach any related documents; and,
- * Immediately forward the CF with all appropriate attachments to the concerned employee's commanding officer, who will forward it to IAG within two days, or in the event of a weekend or holiday, the next business day.

Exception: When the complained-of conduct is of a nature that the integrity of the investigation might be jeopardized by reducing the allegations

to writing, the concerned supervisor shall verbally report to the concerned employee's commanding officer, who shall notify the Commanding Officer, Internal Affairs Group. The Commanding Officer, Internal Affairs Group, shall be responsible for ensuring the CF is subsequently completed.

B. Complaints Made Other than In-Person. When a division or Area receives a complaint other than in-person (i.e., written, telephonic, electronic), a supervisor shall:

- * Complete the CF and attach the related correspondence, documents, and statement;
- * In cases involving an anonymous complainant, a reasonable effort shall be made to identify the complainant;

Note: Identification of the anonymous complainant is desirable in order to complete a thorough investigation and to report back to the complainant the results of the investigation.

- * In cases involving misconduct, where the complainant is known, mail a copy of the Complaint Information Advisory Form;
- * Make notification to the employee's commanding officer whenever the complaint alleges employee misconduct; and,
- * Immediately forward the CF with all appropriate attachments to the employee's commanding officer, who will forward it to IAG without delay.

C. Short Form Section. To facilitate the completion of a CF in cases involving internal neglect of duty (NOD) complaints such as FTA, FTQ, PTC, failure to take a report, or loss of a radio or other equipment, a Short Form section has been added to the back of the CF. A complaint involving the above incidents may be handled using the Short Form Section when all of the following criteria are met:

- * The employee admits the misconduct;
- * There is no significant liability issue(s);
- * The complaint is generated by the Department;

- * There are a minimal number of witnesses and addenda;
- * The allegation covers NOD only;
- * The Short Form is completed within ten business days; and,
- * If more than one employee, the employees are assigned to one command.

Department complaints of NOD completed using the Short Form do not require a Chronological Report, Form 03.11.6..

Note: PTC's involving violations of the pursuit policy shall be reported via the standard reporting and adjudication format.

The Short Form may also be used to document, investigate and adjudicate complaints that involve no significant liability issues in one or more of the following situations:

- * Where the complainant misunderstood or disagreed with current Department policy or procedure;
- * Where the recommended resolution would be by "Other Judicial Review;"
- * Where there was no misconduct involved and the complainant was a chronic/crank complainant; or displayed an obvious mental impairment and the complaint was demonstrably false;
- * Where the investigation could not be completed due to an uncooperative complainant;
- * Where no Department employee was involved; and/or,
- * Where other no misconduct allegations were made by the complainant.

Note: If the incident involves a significant liability issue(s), the Short Form shall not be used and the incident shall be reported and adjudicated using the standard reporting procedure.

The supervisor shall conduct an investigation to ensure there are no alleged acts of misconduct.

Note: With the exception of an uncooperative complainant and no Department employee involved, if the complaint contains a single allegation of misconduct along with allegations of no misconduct, a Short Form investigation can not be used to investigate or adjudicate the complaint.

In the above six uses of the Short Form, a Chronological Record, Form 03.11.6, shall also accompany the Short Form investigation.

The supervisor shall conduct an investigation, if appropriate, to ensure there is no other misconduct. The front of the CF and the Short Form Section shall be completed. The Section, "Brief Summary of Complaint," shall be used to explain the circumstances of the incident. This Section shall be followed by the allegation(s) against the employee(s). Allegations shall be numbered in order. Employee/witness(es)' responses shall follow the allegations. These responses should be brief (no more than a paragraph) and indented from the left margin. Neither tape-recorded interviews, attached statements, nor a separate investigation report are necessary. If necessary, Investigator's Notes may follow the allegation(s) and responses.

The commanding officer's adjudication shall immediately follow (See Commanding Officers' Responsibilities)

- Brief Summary of Complaint
- Allegations
 - Employee/Witness(es) Responses
 - Investigator's Notes (if necessary)
 - Commanding Officer's Adjudication – (See "Commanding Officer's Responsibility")

D. Complainant Investigation Report. Using the standard Intradepartmental Correspondence format (Form 15.2), the following headings shall be used when completing the complainant investigation report:

- * Complaint;
- * Summary (including Allegations);
- * Investigation;

- * Investigator's Notes (including author's name and signature and approval block);
- * Witness List;
- * Addenda; and,
- * Allegation List (not as a page of the report, but as a helpful tool for the reader).

Depending upon the complexity of the investigation, the final report can be as brief or as detailed as necessary, so long as it enables the reviewer to properly adjudicate the complaint.

VI. INTERNAL AFFAIRS GROUP RESPONSIBILITY.

- A. **Initiating a Complaint.** When IAG receives any complaint, IAG shall:
 - * Complete a CF documenting the preliminary information only and attach the related correspondence, documents, and statements;
 - * Issue a CF number;
 - * Assign and forward the CF to the appropriate investigative entity for appropriate action; and,
 - * Mail an acknowledgement of the complaint to the complainant with the CF number referenced.
- B. **Issuance of CF Number.** For tracking, IAG will issue CF numbers to all CFs received and/or initiated under the new definition, including letters of complaint, attached correspondences, duty room referrals, claims for damages and litigation (which imply employee misconduct), and complaints of misconduct received from all sources throughout the Department.
Complaint Forms received by IAG from Department employees that do not meet the criteria for a CF will be issued a CF number for tracking only, and with the approval of the Commanding Officer, Internal Affairs Administrative Division, be closed accordingly.
- C. **Notification to the Chief of Police.** Internal Affairs Group shall, as soon as practicable after becoming aware of serious misconduct, verbally notify the Chief of Police.

VII. COMMANDING OFFICER RESPONSIBILITY.

A. **Initiate Investigation.** Upon receipt of a CF with a CF number issued, commanding officers shall ensure that a supervisor promptly investigates the complaint.

B. **Completion of the Investigation.** The investigation of all public complaints, and Department complaints of misconduct, shall be reported using either the Short Form or standard investigative formats previously established for complaint investigations.

Note: The use of the fact sheet as described in Special Order No. 1, 1998, is hereby rescinded.

C. **Adjudicating the Complaint and Skelly Responsibility.** As a general rule, the commanding officer who managed the employee at the time of the occurrence shall adjudicate the complaint.

Exception: When an unusual length of time has passed between the date of occurrence and the date reported, IAG may assign investigative and adjudicative responsibility to the accused officer's current commanding officer.

Where several employees from different commands were involved, the commanding officer of the primary employee, or where no primary employee could be identified, the commanding officer where the incident occurred, shall be responsible for the adjudication, preparation of the Letter of Transmittal, and Skelly process. If the incident occurred outside the City jurisdiction or the officer was transferred, adjudication responsibility shall be assigned to the appropriate commanding officer by IAG. It is the intent of this section to provide consistent adjudication and Skelly processes to all involved personnel. Therefore, whenever possible, the adjudication and Skelly of all accused personnel should be done by one commanding officer.

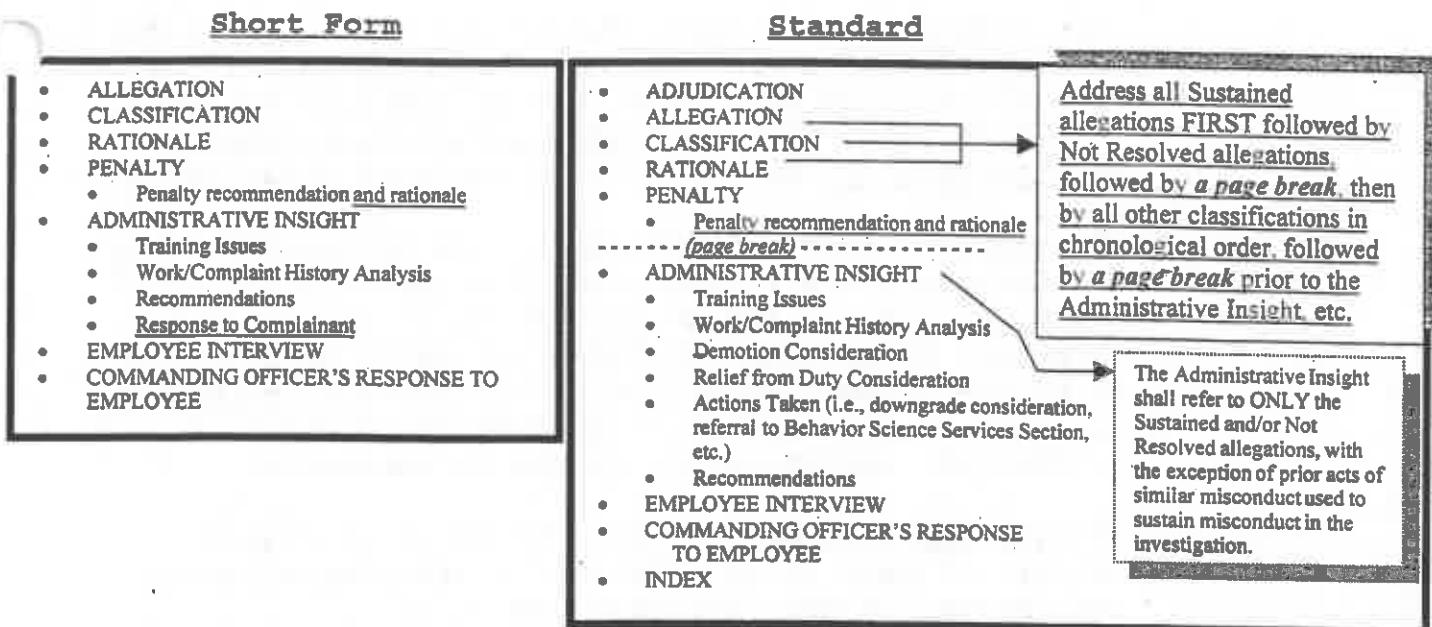
Note: Assistance with multiple Skelly's may be accomplished at the request of the adjudicating commanding officer, with the concurrence of the employee's current commanding officer, as long as the employee's current commanding officer can comfortably address the Letter of Transmittal

issues. The adjudicating commanding officer shall maintain responsibility for responding to the employee's Skelly response (if any) and forwarding the entire investigation, Letter of Transmittal, Skelly(s), and Skelly response(s) to IAG via their bureau. Common sense should prevail in this arena to ensure the appropriate adjudication and notification of the concerned employee(s).

D. Completion of the Letter of Transmittal. The Letter of Transmittal shall be written using either the Short Form or the Standard Letter of Transmittal formats, with the appropriate classification(s) used for misconduct and non-misconduct allegations, and other dispositions. Commanding officers shall familiarize themselves with the criteria for each classification and ensure Letters of Transmittal are written to sufficiently address all allegations raised by the complaint and support the recommended classifications and penalty.

In accordance with the requirements of recently amended California Penal Code (PC) Section 832.5, which prohibits inclusion into an officer's personnel record any portion of a public complaint determined to be "frivolous, unfounded, or exonerated." Letters of Transmittal shall be prepared in the following manner:

Letters of Transmittal for public complaints shall be completed in the usual manner, however, allegation descriptions, classifications, and rationales shall be addressed in the following order: (1) Sustained, (2) Not Resolved, followed by a page break, then (3) all other classifications, followed by a page break, followed by the Administrative Insight, etc. The Administrative Insight portion shall discuss ONLY the Sustained and Not Resolved allegations, with the exception of prior acts of similar misconduct. In this manner, only a copy of those sections of the Letter of Transmittal discussing Sustained (or Sustained and Not Resolved) allegations will be placed into the concerned employee's personnel record. The original Letter of Transmittal and investigation will be filed at Internal Affairs Group.



In adjudicating a complaint of misconduct, the commanding officer may consider evidence of prior acts, irrespective of whether they were associated with a complaint investigation against the accused and irrespective of the resolution of such complaint, if relevant to the charges, such as, if tending to prove that the conduct charged is consistent with a pattern of conduct. Consideration of evidence of prior acts must be clearly articulated in the Letter of Transmittal and copies of evidence of such acts shall be provided to the employee at the time of service of the Notice of Proposed Disciplinary Action, Form 1.88, or Employee Investigation Review, Form 1.88.1. If the evidence of such acts is in a document other than in a Complaint Investigation or a CF, it shall be included as part of the addenda. If the evidence of such acts is in a Complaint Investigation or CF, a copy of the report(s) shall be forwarded with the Complaint Investigation to IAG.

Note: Evidence of prior acts may be noted in comment card entries, Notice to Correct Deficiencies, Performance Evaluation Reports, or other documents.

E. Disposition of Duplicate Complaint. No Letter of Transmittal is necessary to close a CF number when

the complaint is a duplicate of one referenced under a different CF number and no new issues were raised. The disposition section of the CF shall be completed and forwarded, with appropriate Intradepartmental Correspondence, to IAG with appropriate attachments.

Exception: When the complaint is a duplicate of one referenced under a different CF number and the new allegation(s) raised do not appear to require a separate investigation, this fact shall be discussed with the Commanding Officer, IAG, who will determine whether "Duplicate" is an appropriate disposition or a separate investigation should be conducted.

- F. Requesting Extensions.** All CFs shall be closed within 60 days of initiation. Commanding officers may request extensions from IAG on an Intradepartmental Correspondence via their bureau commanding officer.
- G. Requirement for Approval of Bureau Commanding Officer or Other Reviewing Officer.** Commanding officers are not required to obtain concurrence of the bureau commanding officer or other reviewing officer for the disposition of a complaint and/or penalty. However, when administering a penalty of an admonishment or less, the concerned commanding officer shall cause the employee to review and sign the CF. This does not preclude the Chief of Police from making a determination that a more serious penalty is warranted.

VIII. BUREAU COMMANDING OFFICER RESPONSIBILITY. Bureau commanding officers or their equivalents shall review the investigations, classification, rationale, and administrative insight of all complaints completed under their command. They shall ensure that all allegations raised by the complainant have been identified and addressed and that action taken, recommendations made and a response to the complainant were noted and copies of correspondence, other pertinent documents and/or addenda are attached. The reviewer shall endorse by signing the CF in the space provided.

Any comments or recommendations regarding disapproval shall be placed on a separate Intradepartmental Correspondence signed by the reviewing officer, attached

to the complaint, and forwarded to the next level of review. An Intradepartmental Correspondence containing comments or recommendations regarding disapproval and the rationale in support thereof shall be known as a "Military Endorsement."

IX. RETENTION OF COMPLAINT INVESTIGATIONS. Only Sustained Department complaints (one or more allegations is classified as Sustained, or public complaints where there is a combination of Sustained and Not Resolved allegations) will be filed in an employee's personnel file. All complaints disposed of as other than Sustained will be maintained in IAG files.

X. RECORDATION OF COMPLAINTS. All complaints and their subsequent dispositions shall be recorded on the Complaint History, Form 1.06.2, Complaint Index, Form 1.80, and in TEAMS.

The disposition of a complaint for which there are duplicate CF numbers shall be recorded based on the disposition of the master CF number and a disposition of Duplicate shall not be entered on the Complaint History, Complaint Index or in TEAMS.

Exception: The following are exceptions to the recordation of complaints.

- * When there is a disposition that is included in the "Other Disposition" category of a complaint in which it cannot be attributed to an employee, the complaint will not appear on the Complaint History, Complaint Index or in TEAMS.
- * Pursuant to Penal Code Section 832.5, public complaint allegations determined to be unfounded or exonerated, and complaints determined by IAG to be frivolous, as defined in Section 128.5 CCP, shall not be entered on the Complaint History or displayed on TEAMS reports used for promotion, transfer, or disciplinary action. The original CF and the Complaint Index for complaints determined to be frivolous shall be marked "Frivolous per Section 128.5 CCP. Do not use or reference."
- * When there is a disposition of chronic/crank/obvious mental impairment, the complaint shall not be entered on the complaint history or displayed on TEAMS report used for promotion, transfer, or disciplinary action.

XI. REVISED COMPLAINT FORM, FORM 1.28.0. The previously activated Complaint Form will be modified to include the revisions involved in this Order and will be made available at a later date. Until such time, the current Complaint Form, Form 1.28, shall be used.

A. Use of Form. This form is to be used to:

- * Document complaints that were previously noted on fact sheets and in response to letters of complaint (the complainant's statement, letter, or claim for damages, if any, shall be attached to the form);
- * Document all public complaints which were previously noted as resolved on Comment Cards and Sergeant's or Watch Commander's Daily Reports;
- * Document negligent calls for service;
- * Record all FTA, FTQ, and PTCs;
- * Record the details of a complaint against an employee or Police Reserve Corps member;
- * Offer suggestions for investigation of the complaint; and,
- * In the "Disposition of Complaint" section, record the commanding officer's comments, including a summary of each allegation, a summary of each employee's involvement, and, when appropriate, the recommended corrective action.

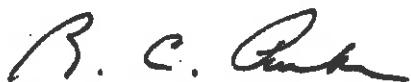
B. Distribution. Preliminary Distribution - Complaint Face Sheet.

- 1 - Original to IAG (for face sheet assignment and classification of complaint) and returned to the commanding officer, (to be forwarded for review to the affected bureau and IAG with the completed Investigation, Summary, and Recommendation or Corrective Action).
- 1 - Bureau commanding officer (to be returned to IAG with the original Complaint Form).
- 1 - Internal Affairs Group (File copy).
- 1 - Police Commission, Office of the Inspector General (to be sent by IAG).

4 - TOTAL

AMENDMENTS: This Order amends Sections 2/230/24, 2/1042.21, 3/258.01, 3/810.20, 3/810.30, 3/810.35, 3/810.40, 3/810.42, 3/815, 3/815.10, 3/815.15, 3/820.01, 3/820.03, 3/820.05, 3/820.07, 3/820.10, 3/820.40, 3/825, 3/830.30, 3/830.31, 3/837.30, 3/838.10, 3/860.40, 3/870.40, 5/1.81.0, 5/1.81-01, 5/1.81-80, and 5/1.81.16 of the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Internal Affairs Group, shall monitor compliance with this directive in accordance with Department Manual Section 0/080.30.



BERNARD C. PARKS
Chief of Police

DISTRIBUTION "D"